

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 20-43353

RODNEY STACHURSKI, and
KAREN STACHURSKI,

Chapter 7

Judge Thomas J. Tucker

Debtors.

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ORDER DISMISSING CASE

On March 6, 2020, the Debtors filed a joint voluntary petition for relief under Chapter 7, commencing this case. But neither of the Debtors is eligible to be a debtor in this case, based on 11 U.S.C. § 109(g)(2), which provides:

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if—

...

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

11 U.S.C. § 109(g)(2).

The Debtors were debtors in a bankruptcy case pending within 180 days before filing this case: Case No. 18-50790, which the Debtors voluntarily dismissed on October 22, 2019. In that case, on December 14, 2018, Creditor Acar Leasing, Ltd., d/b/a GM Financial filed a motion for relief from the automatic stay. (Docket # 42 in Case No. 18-50790, the “Stay-Relief Motion”). On January 7, 2019, the Court entered an order granting relief the Stay-Relief Motion (Docket # 54 in Case No. 18-50790). On October 21, 2019, the Debtor filed a motion to voluntarily dismiss that case (Docket # 67 in Case No. 18-50790). An order of dismissal was entered on

October 22, 2019 (Docket # 68 in Case No. 18-50790).

The Court reiterates what it has held about § 109(g)(2) in prior cases, including the case of *In re Turner*, 583 B.R. 910, 911 (Bankr. E.D. Mich. 2018):

The Court agrees with the cases holding that (1) dismissal under § 109(g)(2) is mandatory when that statute applies; dismissal is not discretionary; and (2) it is irrelevant under § 109(g)(2) whether there is some causal link or nexus between the filing of a stay relief motion on the one hand, and the debtor's later voluntary dismissal of the case on the other hand. Section 109(g)(2) applies, and requires dismissal, in every situation in which, in a prior case [was] pending within 180 days before the filing of the present case, a creditor filed a motion for relief from stay and the debtor later voluntarily dismissed the case, regardless of the debtor's good faith or whether there was any particular connection between the two events. *See Andersson v. Security Federal Savings and Loan of Cleveland (In re Andersson)*, 209 B.R. 76, 77, 78 (6th Cir. B.A.P. 1997), and cases cited therein. The undersigned judge has so ruled in previous bench opinions, and adheres to that ruling now. *See, e.g., In re Sigh*, Case No. 09-62738, November 19, 2009 bench opinion at 5-6 (a copy of the transcript of that bench opinion, . . . is filed in the *Sigh* case at Docket # 42 . . .).

See also In re Steele, 319 B.R. 518, 520 (Bankr. E.D. Mich. 2005) (McIvor, J.).

(citation omitted).

Based on the facts stated above, neither of the Debtors is eligible to be a debtor in any bankruptcy case filed within 180 days after October 22, 2019, and therefore neither of the

Debtors is eligible to file any bankruptcy case until on or after Monday, April 20, 2020.¹ As a result, this case (filed March 6, 2020) must be dismissed.

Accordingly,

IT IS ORDERED that this bankruptcy case is dismissed.

Signed on March 9, 2020



/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge

¹ Because 180 days after October 22, 2019 is Sunday, April 19, 2020, the Debtors are not eligible to file for bankruptcy until Monday, April 20, 2020. *See* Fed. R. Bankr. P. 9006(a)(1)(C).